

May 21, 2019

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington DC, 20554

Petition for Reconsideration:

Per 47 C. F. R. § 1.106

This is a Petition for Reconsideration of DA No. 19-326, released April 30, 2019 2019. Switzer Center (SLC) requests that the decision be overturned and a Form 471 Filing Window Waiver be granted for us to file our Initial filing of request for discounts on eligible services for funding year 2018. SLC has filed Form 470 for funding year 2018 and received certification under the Billed Entity Number 101487, and application number 180031741. Below you will find new facts for your consideration.

Special Circumstance: - New facts

Filing Window for form 471 was missed due to delays that were caused by unexpected events and circumstances beyond our control.

SLC is a single facility, private, non-public school providing contracted educational services to local Los Angeles area school districts. It provides specialized, para-professional and basic educational services for 70-85 students identified as being on the autism spectrum by their host district, drawing roughly 60% of students from high poverty areas and eligible for the National School Lunch Program (NSLP).

A. Unexpected Events.

1. In late 2017, SLC adopted a new "Technology Revolution" platform to meet the immediate needs of deteriorating communicative infrastructure and enhance a new curriculum meant to provide practical skills to students. Several grants were written to provide funding for the initiative. Indications of interest from

prospective donors began to emerge in May 2018, after the initial March 2018 Window deadline for filing Form 470. Anticipating the Grant would be funded, and the initiative would move forward using E-Rate discounts it was currently receiving, SLC filed Form 470 on May 9th, 2018, with the anticipation it would file a waiver request at a later date. An expedited process of conducting a search, awarding a contract (6/19/18) and installing upgrades, per E-Rate regulations, and before the September 30 deadline for such, was conducted by a single staff member charged with the usual and ordinary functions of the school's business office, and not dedicated to pursuing federal support. E-Rate consulting and assistance weren't an option due to the school's small size and tight operating margins. The resulting contract awarded by SLC's Board was for both Category I & II services including the installation of Fiber Optics to enhance speeds and "bundled" managed services for backup of student data and firewall protections to safeguard students and system integrity.

2. After installation of new equipment and initiation of new services occurred on August 29th, porting existing phone and dedicated fax lines was delayed due to service provider miscommunication and error. The unforeseen occurrence became an impediment and hindered the termination of service and return of equipment under the auto-renewed one year contract still in effect with the previous E-Rate contractor, a problem yet to be resolved and currently under formal complaint with the California Public Utilities Commission (CPUC). Delays in porting phone numbers to the new E-rate contracted service provider caused considerable disruptions even as these lines are required by state and district authorities to communicate student Individual Education Plans (IEP's) and other sensitive student data. Due to such concerns, SLC wasn't able to terminate its contract in an ordinary manner, which caused an unwanted auto-renewal with the existing provider and confusion about whether to file Form 471 under such circumstances. SLC still has two contracts in place, pending its formal complaint with CPUC.
3. SLC now wishes to file its Form 471 for funding year 2018, but is precluded from doing so by Universal Service Administrative Company (USAC) without a waiver granted by the FCC. Consistent with precedence in the *Bishop Perry Order*, where waivers were granted "as not to impair the administration of the program," SLC is

requesting a waiver be granted to allow for funding its multi-year contract entered into prudently under the E-Rate process. As with the previously cited order, SLC is a small school district (single facility) otherwise compliant and earnestly attempting to "serve the public" and its students, consistent with furthering the purpose of section 254(h) of the Act, and with undedicated, limited staff prudently attempting to "pursue federal support" and encountering "circumstance beyond their control" preventing "rigid adherence." SLC further asserts, its violations were "procedural violations" and do not constitute substantive violations. As with the Bishop Perry Order, the primary function of the staff member completing and filing forms wasn't dedicated to pursuing federal support, but with maintaining financial viability of the small school district.

- B. SLC understands it is seeking a waiver much later than usually allowed, but asserts it does so due to circumstances beyond its control. SLC now finds itself with a certified form 470 for Funding Year 2018, a multi-year contract entered into under the expectation discounts would be applied beginning in FY 2018 and restricted from reapplying by the multi-year contract already in place. Also, SLC is still hindered by its ongoing entanglement with its predecessor provider, draining already limited resources and possibly forcing an expensive termination fee for services it never wanted and never received. SLC finds itself potentially losing long-maintained phone and fax numbers, critical to its operations, as well as E-Rate discounts it was relying on to implement plans seemingly targeted by the Act. To attempt another application process, even if it were practical, would test the limited resources already strained by continued tight budgets and limited state and local educational resources for Special Education Non-public Schools.

As you can see from the above description, SLC was overwhelmed with complexity and delays encountered during its installation of equipment and services by unforeseen events beyond its control, beleaguering staff and preventing a timely filing of form 471. As such, we plainly request a waiver be granted to allow our filing of Form 471, compliant with all other E-Rate process requirements, and to receive anticipated E-Rate program discounts and awards beginning with Funding Year 2018, to maximize implementation of its "Technology Revolution" initiative. Surely this is consistent with the intent of the Act?

Please let me know if additional information would be helpful. The loss of an estimated \$25,000 in Category I and \$37,000 of estimated Category II reimbursements would significantly impact the effectiveness of SLC's curriculum plans and initiatives.

Attached you will find:

- 1 Attachment 1 – Confirmation of Switzer Center's Form 470 for Funding Year 2018
- 2 Attachment 2 – Email from USAC re: notice of first attempt to file form 471
- 3 Attachment 3 – Formal Complaint filing with California Public Utilities Commission
- 4 Attachment 4 – Service Agreement – TPx Communications, signed 6/29/18

Thank you for considering these new facts related to the unexpected events outside of my staff's control now necessitating my request for waiver.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dr. Rebecca Foo', with a long horizontal line extending to the right.

Dr. Rebecca Foo
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